IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3402 OF 2007

Ghevarlal Bafna .. Petitioner
Versus
Sudhir Tarachand Patil .. Respondent

Mr.V.S.Kapse for petitioner
Mr.J.N.Pawar for respondent

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th November 2007

P.C.

. Notice was directed to be issued on the limited question as to whether the executing court could have considered the request of petitioner judgement debtor to reduce the rate of interest in the money decree.

2. Upon perusal of the petition and the annexures including the decree so also the application and provisions of law, I am satisfied

that in the peculiar facts of this case no larger controversy need be gone into and decided. The question regarding power of executing court to grant such a relief can be gone into in an appropriate case. All that is requested is some concession in the rate of interest from the date of the application made in the executing court. It would be fair, just and proper to exercise inherent powers of this Court so also its equitable and discretionary jurisdiction under Article 227 of Constitution of India and grant following relief.

3. The decree which has been passed in favour of the present respondent and against the petitioner awards a claim in favour of the respondent and against the petitioner of Rs.69,995.29 with interest at 18% p.a. from the date of filing of the suit. That rate will continue to prevail and bind the judgement debtor - petitioner before me till 30th June 2005. From

1st July 2005 till payment or realisation, the present petitioner - judgement debtor shall pay interest on the sum remaining balance/outstanding and/or awarded at 12% p.a. This concession is granted provided the petitioner - judgement debtor makes the entire payment under the decree with interest as stipulated above within four months from today.

4. Needless to state that if the amount is not paid the respondent decree holder is entitled to recover entire decreetal amount without any modification as to the quantum of interest in accordance with law and the petitioner shall be duty bound to comply with that direction without any objection to the executability or enforceability of the decree being raised or if raised being entertained by the executing court. Petition disposed of. No costs.

(S.C.Dharmadhikari, J)